

REMARKS

Claims 1-29 are pending in the application. Claims 1, 18-19 and 29 have been amended.

In the Office Action, claims 1-20, 24 and 29 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,430,081 (Timmermans). Claims 21-23 and 25-28 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Timmermans. These rejections are respectfully traversed. Applicant hereby requests reconsideration and allowance of the claims in view of the following arguments.

Regarding the anticipation rejection of independent claims 1, 18, 19, and 29 based on Timmermans, these claims have been amended to recite that the port corpus, septum, septum retainer, and conus are engageable to form a port assembly having a substantially slender overall profile for implantation under the skin of an animal. These amendments are fully supported, for example, at page 9, lines 18-21; page 10, lines 7-13; and Figs. 1(a) and 1(b) of the present application. No new matter has been added.

Timmermans does not disclose or even suggest the claimed port assembly having a substantially slender overall profile, and does not disclose or suggest that its port is implantable under the skin of an animal. Timmermans does not relate to a subcutaneous port, but rather to a hemostasis cannula. As such, it is not implantable under the skin, as claimed. Moreover, it does not have the recited substantially slender profile, and does not need to have such a profile. As clearly shown, for example, in Figs. 1 and 4 of Timmermans, the disclosed cannula 10 is not “slender” per the plain meaning of that term; i.e., having a circumference that is small in proportion to the height or length. *See*, Random House Webster’s Unabridged Dictionary, Second Edition, Random House 1998 at 1797. Also shown at Fig. 4 and described in detail at col. 3:21-35 of Timmermans, cannula 10 is not taught to be implantable under the skin, as

claimed, but rather to be used outside the body of a patient (specifically, taped in position on the body of the patient). Timmermans' cannula 10 even has a projection 47 from its port 45 to allow connection of a fluid line 46, which one skilled in the art would know would effectively prevent cannula 10 from being implanted in a body.

Timmermans does not anticipate amended independent claims 1, 18, 19, or 29, because it does not disclose each and every element of those claims. Moreover, it would not have been obvious to modify the cannula of Timmermans to yield the inventions of claims 1, 18, 19, or 29.

Consequently, claims 1, 18, 19, and 29 are patentable, as are claims 2-17 and 20-27, which depend from claims 1, 18, and 19, respectively.

Regarding the obviousness rejection of independent claim 28 based on Timmermans, it would not have been obvious to implant Timmermans' cannula under the skin of a rodent, as claimed, because Timmermans does not teach implanting its cannula under the skin of a human or an animal, despite contentions to the contrary in the Office Action. As discussed in detail hereinabove, Timmermans' cannula 10 is not taught to be implanted, but rather to be used outside the body of a patient. Thus, Timmermans teaches away from the claimed method steps of implanting a subcutaneous port.

Consequently, claim 28 is patentable.

Accordingly, it is believed that the application is now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

Application No.: 10/798,450

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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